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HOUSE BILL 137

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

RICK MIERA

AN ACT

RELATING TO PROPERTY; REQUIRING CERTAIN INFORMATION TO BE  
FURNISHED TO COUNTY ASSESSORS IN CONNECTION WITH THE TRANSFER OF  
AN INTEREST IN REAL PROPERTY BY A TRANSFER INSTRUMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. TRANSFER OF AN INTEREST IN REAL PROPERTY--USE  
OF AN AFFIDAVIT TO RECORD INFORMATION.--

A. Except as indicated in Subsection B of this  
section, a county clerk or his employee shall not accept for  
recording or record a transfer instrument unless the transfer  
instrument presented contains the county assessor's approval  
stamp certifying the receipt of an affidavit that meets the  
requirements set forth in this section.

B. The affidavit shall not be required for:

(1) a transfer instrument for the transfer of

1 residential property for no or nominal consideration;

2 (2) a transfer instrument that results from the  
3 payment in full or forfeiture by a transferee under a recorded  
4 transfer instrument;

5 (3) an instrument solely to provide or release  
6 security for a debt or obligation; or

7 (4) an instrument arising out of a sale for  
8 delinquent taxes or assessments.

9 C. Prior to presenting a transfer instrument for  
10 recording, a person shall present the transfer instrument and an  
11 affidavit to the county assessor. The affidavit shall be signed  
12 by the transferors and transferees of any interest in residential  
13 property transferred by a transfer instrument. The affidavit  
14 shall contain at least the following information:

15 (1) the complete names of all transferors and  
16 transferees;

17 (2) the current mailing addresses of the  
18 transferors and transferees;

19 (3) the legal description of the real property  
20 interest transferred as it appears in the document of transfer;  
21 and

22 (4) the full consideration, including money or  
23 any other thing of value paid or exchanged for the transfer.

24 D. Upon receipt of the affidavit meeting the  
25 requirements of this section, the county assessor shall place

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1 the date of receipt on the original affidavit, shall retain the  
2 original affidavit as a permanent record and shall stamp the  
3 transfer instrument. The assessor shall make copies of the  
4 original affidavit and shall index the affidavit copies in a  
5 manner that permits cross-referencing to other records in the  
6 assessor's office pertaining to the property described in the  
7 affidavit.

8 E. Prior to January 1, 1998, the taxation and  
9 revenue department shall print and distribute to each county  
10 assessor affidavit forms for distribution to the public upon  
11 request.

12 F. A transfer instrument erroneously recorded  
13 without the county assessor's approval stamp certifying the  
14 receipt of an affidavit shall not be void, voidable, invalid or  
15 affected in any manner by a mistake or error in recording.

16 G. For the purposes of this section:

17 (1) "transfer instrument" means a document, the  
18 execution and delivery of which by a transferor to a transferee,  
19 that creates in the transferee a legal or equitable ownership  
20 interest in residential property; and

21 (2) "residential property" means a dwelling and  
22 the underlying real property designed for occupancy by one to  
23 four families and includes mobile homes and condominiums.

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 137

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

AN ACT

RELATING TO PROPERTY; REQUIRING CERTAIN INFORMATION TO BE  
FURNISHED TO COUNTY ASSESSORS IN CONNECTION WITH THE TRANSFER OF  
AN INTEREST IN REAL PROPERTY BY A TRANSFER INSTRUMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. TRANSFER OF AN INTEREST IN REAL PROPERTY--USE  
OF AN AFFIDAVIT TO RECORD INFORMATION. --

A. Except as indicated in Subsection B of this  
section, a county clerk or his employee shall not accept for  
recording or record a transfer instrument unless the transfer  
instrument presented is accompanied by an affidavit that meets  
the requirements set forth in this section.

B. The affidavit shall not be required for:

(1) a transfer instrument for the transfer of  
residential property for no or nominal consideration;

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(2) a transfer instrument that results from the payment in full or forfeiture by a transferee under a recorded transfer instrument;

1 (3) an instrument solely to provide or release  
2 security for a debt or obligation;

3 (4) an instrument arising out of a sale for  
4 delinquent taxes or assessments;

5 (5) an instrument that is being recorded solely  
6 for curative reasons to clear defects in the chain of title; or

7 (6) a transfer instrument that results when the  
8 state, a county or a city is a transferor or transferee.

9 C. When presenting a transfer instrument for  
10 recording, a person shall present the transfer instrument and an  
11 affidavit to the county clerk. The affidavit shall be signed by  
12 the transferors and transferees of any interest in residential  
13 property transferred by a transfer instrument. The affidavit  
14 shall contain at least the following information:

15 (1) the complete names of all transferors and  
16 transferees;

17 (2) the current mailing addresses of the  
18 transferors and transferees;

19 (3) the legal description of the real property  
20 interest transferred as it appears in the document of transfer;  
21 and

22 (4) the full consideration, including money or  
23 any other thing of value paid or exchanged for the transfer.

24 D. Upon receipt of the affidavit meeting the  
25 requirements of this section, the county clerk shall at no

1 additional cost present a copy of the recorded transfer instrument  
2 and the affidavit to the county assessor who shall place the date  
3 of receipt on the affidavit and shall retain it as a permanent  
4 record. The county clerk shall not make a copy of the affidavit.

5 E. Prior to January 1, 1998, the taxation and revenue  
6 department shall print and distribute to each county assessor  
7 affidavit forms for distribution to the public upon request.

8 F. A transfer instrument erroneously recorded without  
9 the receipt of an affidavit shall not be void, voidable, invalid or  
10 affected in any manner by a mistake or error in recording.

11 G. For the purposes of this section:

12 (1) "transfer instrument" means a document, the  
13 execution and delivery of which by a transferor to a transferee,  
14 that creates in the transferee a legal or equitable ownership  
15 interest in residential property but does not include those that  
16 are executed and delivered solely for curative purposes to cure  
17 defects in the chain of title; and

18 (2) "residential property" means a dwelling and  
19 the underlying real property designed for occupancy by one to four  
20 families and includes mobile homes and condominiums.

21 Section 2. CONFIDENTIALITY. -- The affidavit and its contents  
22 are confidential and shall not be disclosed except:

23 A. to employees in the clerk's office and the  
24 assessor's office and employees of the taxation and revenue  
25 department, any of whom must have a demonstrated need for the

1 information in carrying out their official duties;

2 B. under an order of a court of competent jurisdiction;

3 C. in connection with a protest under Section 7-38-21  
4 NMSA 1978; or

5 D. for statistical purposes if used in a way that the  
6 information disclosed is not identifiable or identified as  
7 applicable to any property owner or person in possession of the  
8 property.

9 Section 3. EFFECTIVE DATE. -- The effective date of the  
10 provisions of this act is January 1, 1998.

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**State of New Mexico  
House of Representatives**

**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

February 24, 1997

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has  
been referred

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL  
137

has had it under consideration and reports same with  
recommendation that it DO PASS.

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**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

**HTRC/HJC/HB 137**

**Page 9**

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Respectfully submitted,

\_\_\_\_\_  
Jerry W. Sandel, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 8 For 4 Against

Yes: 8

No: Crook, Gubbels, Parsons, Stell

Excused: Russell

Absent: None

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FORTY-THIRD LEGISLATURE HJC/HB 137/a  
FIRST SESSION, 1997

March 17, 1997

Mr. President:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 137

has had it under consideration and reports same with recommendation  
that it DO PASS, amended as follows:

1. On page 4, between lines 11 and 12, insert the following new  
subsection:

"E. It is unlawful for any employees in the clerk's office  
and the assessor's office and employees of the taxation and revenue  
department to reveal to any individual other than as provided for in  
this section any information contained in the affidavit."

Respectfully submitted,

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**FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997**

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\_\_\_\_\_  
Fernando R. Macias, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 5 For 0 Against

Yes: 5

No: 0

Excused: Sanchez, Tsosie, Vernon

Absent: None

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